

REMARKS

Reconsideration of this application is respectfully requested in view of these remarks and the above amendments. The examiner's courtesy in extending a telephone interview on March 22 is gratefully acknowledged.

In the course of that interview it became apparent that the examiner had not fully comprehended the intended import of the main claim 23 when read in view of the specification. That claim along with others had been the subject of a rejection under §101 and a related §112 rejection as well as rejections under §§102 and 103 based on the *Sridhar* reference and the *Sridhar* reference together with the *Deaton* reference. The undersigned explained that the claims relate to a method in only one statutory class under §101, and the examiner indicated he would withdraw the rejection under §101 and the related rejection under §112.

Submitted with this response is a revised claim 23 that should make the distinctions from the cited references apparent. While the undersigned asserts that the previous claim 23 was unambiguous in its interpretation in view of the specification and fully in compliance with §112, nevertheless it appeared in the interview that the examiner found the claim language somewhat dense going. Claim 23 has been revised with an eye to making it easier to read.

The distinctions from the *Sridhar* reference should now be evident. Loosely speaking, in the claimed invention customers compete with one another in a substantial way for promotional offers; in *Sridhar* they do not. This can be seen in claim 23, for example, as follows. Claim 23 calls for generating a plurality of scores, where the notion of score is defined in the specification, for example, on page 12 in connection with the discussion of FIG. 3, and the claim is to be read in light of the specification. In claim 23 the scores are determined for a plurality of customers. The claim then calls for identifying the highest score. To do this, all the scores have to be compared with one another, and that means that some scores for *different* customers have to be compared with one another. Thus, by identifying the highest score and identifying customers based on that highest score, one is in effect making a first selection of customers based on their *relative* propensities for promotional offers since there will only be certain customers associated

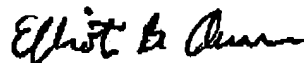
with that highest score. That is to say, the claim calls for identifying the highest score as a first step toward identifying a selection of customers.

Sridhar does not do this. In *Sridhar*, "[p]urchase predictor (1008) supplies the purchase prediction for the subscriber referred by the Subscriber interface manager(1009), to Ad selection unit (1006)." (*Sridhar*, in ¶[0064] on page 4.) That is to say, in *Sridhar* the subscriber interface manager does the work of identifying the customer or customers and this is done before any purchase prediction probability is supplied. The subscriber interface manager does not itself compare purchase prediction probabilities. That means that *Sridhar* does not compare purchase probabilities for different customers as an initial step in identifying the customers. (We have assumed here for the sake of argument the examiner's identification of applicants' scores with *Sridhar*'s purchase probabilities.) This distinction alone already shows that *Sridhar* and the presently claimed invention go in entirely different directions in how they distribute promotional offers and to whom.

The examiner is requested to review the various other claims in light of these explanations and amendments, which are believed now to obviate the previous grounds of rejection. It is noted in particular with regard to claim 18 that *Sridhar*'s FIG. 7 does not show any actual measures of acceptance probabilities as called for in the claim, and all the more so does not show them in a graphical display. *Sridhar*'s ¶116 referred to by the examiner does not discuss anything about graphical elements, and there is accordingly no discussion of manipulation of the graphical elements.

The undersigned asserts that the application is now in condition for allowance and action to that effect is respectfully requested. If the examiner feels that there are any lingering issues that can be resolved by telephone or feels that a telephone interview would be beneficial in any way, he is invited to call the undersigned at 510-658-9511.

Respectfully submitted,



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I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office to fax No. 571-273-8300 on the date shown below.

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Date

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